

EXHIBIT “A”

EXHIBIT “A”

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Steven D. Grierson
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COMP

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Nevada Bar No. 12476
ER INJURY ATTORNEYS
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Attorneys for Plaintiff

CASE NO: A-20-826521-C
Department 32

DISTRICT COURT

CLARK COUNTY, NEVADA

BETTY TERRESE WRIGHT, individually,

Plaintiff,

v.

SMITH'S FOOD & DRUG CENTERS, INC. an
Ohio Corporation; DOES I-V; and ROE
CORPORATIONS III-V, inclusive,

Defendants.

CASE NO.
DEPT. NO.

COMPLAINT

Plaintiff BETTY TERRESE WRIGHT ("Plaintiff") complains as follows:

GENERAL ALLEGATIONS

1. Plaintiff is, and at all times relevant herein, was, a resident of Clark County, Nevada.
2. The actions complained of herein occurred in Clark County, Nevada.
3. Defendant SMITH'S FOOD & DRUG CENTERS, INC., is, and at all times mentioned herein was, an Ohio corporation conducting business in Clark County, Nevada.
4. The true names and capacities of the Defendants designated herein as Doe or Roe Corporations are presently unknown to Plaintiff at this time, who therefore sues said Defendants by such fictitious names. When the true names and capacities of these defendants are ascertained, Plaintiffs will amend this Complaint accordingly.
5. At all times pertinent herein, Defendants were agents, servants, employees or joint venturers of every other Defendant, and at all times mentioned herein were acting within the scope and course of said agency, employment, or joint venture, with knowledge and permission and consent of all other named Defendants.

18. As a direct and proximate result of Defendants' negligence, Plaintiff has been required to and has limited certain recreational activities, which has caused, and shall continue to cause loss of enjoyment of life.

19. Plaintiff has been required to engage the services of an attorney, incurring attorney's fees and costs to bring this action.

WHEREFORE, Plaintiff expressly reserves the right to amend this complaint prior to or at the time of trial of this action, to insert those items of damage not yet fully ascertainable, prays judgment against all Defendants, and each of them, as follows:

1. For general damages in an amount in excess of \$15,000.00;
2. For special damages in an amount in excess of \$15,000.00;
3. For reasonable attorney's fees and costs;
4. For property damage sustained by Plaintiff;
5. For interest at the statutory rate; and
5. For such other relief as the Court deems just and proper.

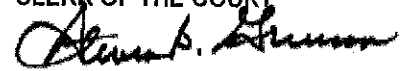
ER INJURY ATTORNEYS

By:

Justin G. Randall, Esq.
Nevada Bar No. 12476
4795 South Durango Drive
Las Vegas, Nevada 89147
Attorneys for Plaintiff

PSEER
ER INJURY ATTORNEYS
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LAS VEGAS, NV 89147
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1/8/2021 10:12 AM
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DISTRICT COURT
CLARK COUNTY, NEVADA

BETTY TERRESE WRIGHT
Plaintiff

vs

SMITH'S FOOD & DRUG CENTERS, INC
Defendant

Case Number: A-20-826521-C

Dept:

PROOF OF SERVICE

DUSTIN GROSS, deposes and says: that at all times herein I am a citizen of the United States, over 18 years of age and not a party to nor interested in the proceeding in which this statement is made.

Affiant received a copy of the:
SUMMONS; COMPLAINT

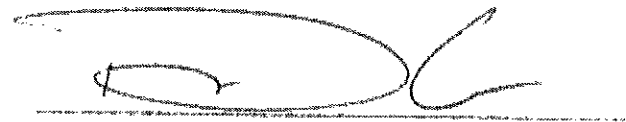
I served the same on 12/21/2020 at 1:12 PM to:

Defendant SMITH'S FOOD & DRUG CENTERS, INC., AN OHIO CORPORATION, BY SERVING CORPORATION SERVICE COMPANY, REGISTERED AGENT

by leaving the copies with or in the presence of **KRIS OSBORN, CORPORATE SPECIALIST**, at 112 N CURRY ST, CARSON CITY, NV 89703, pursuant to NRS 14.020.

Pursuant to NRS 53.045, I declare under penalty of perjury under the law of the State of Nevada that the foregoing is true and correct.

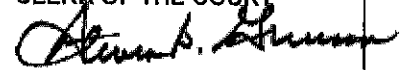
Executed: Thursday, December 24, 2020



DUSTIN GROSS
Battle Born Process Service, NV PILB LIC
#1876
3710 Grant Drive, Ste. L
Reno, NV 89509
775-507-7188

P-1937643.01

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Steven D. Grierson
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1 ANSC
JERRY S. BUSBY
2 Nevada Bar #001107
GREGORY A. KRAEMER
3 Nevada Bar #010911
COOPER LEVENSON, P.A.
4 3016 West Charleston Boulevard - #195
Las Vegas, Nevada 89102
5 (702) 366-1125
FAX: (702) 366-1857
6 jbusby@cooperlevenson.com
gkraemer@cooperlevenson.com
7 Attorneys for Defendant
SMITH'S FOOD & DRUG CENTERS, INC.
8

9 DISTRICT COURT

10 CLARK COUNTY, NEVADA

11 BETTY TERRESE WRIGHT, individually;
12 Plaintiff,

13 v.

14 SMITH'S FOOD & DRUG CENTERS, INC.
an Ohio Corporation; DOES I – V; and ROE
15 CORPORATIONS III-V, inclusive,
16 Defendants.

CASE NO.: A-20-826521-C
DEPT. NO.: XXXII

**DEFENDANT SMITH'S FOOD & DRUG
CENTERS, INC.'S ANSWER TO
PLAINTIFF'S COMPLAINT**

17
18 COMES NOW, Defendant, SMITH'S FOOD & DRUG CENTERS, INC., by and through its
19 attorney of record, JERRY S. BUSBY, ESQ., of the law firm COOPER LEVENSON, P.A., and hereby
20 answers Plaintiff's Complaint on file herein as follows:

21 **I.**

22 This answering Defendant states that it does not have sufficient knowledge or information upon
23 which to base a belief as to the truth of the allegations contained in Paragraphs 1, 2, 4, 5, 6 and 8 of
24 Plaintiff's Complaint and upon said ground, denies each and every allegation contained therein.

25 **II.**

26 This answering Defendant admits the allegations contained in Paragraphs 3 and 7 of
27 Plaintiff's Complaint.

28 ///

III.

This answering Defendant denies each and every allegation contained in Paragraphs 9, 10, 11 and 12 of Plaintiff's Complaint.

IV.

This answering Defendant, in response to Paragraph 13 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**", incorporates herein by reference each and every answer previously alleged to the Paragraphs which the Plaintiff has realleged by incorporation.

v.

Paragraph 14 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**" states a legal conclusion which is the sole province of the Court to determine. This answering Defendant therefore denies said Paragraph.

VI.

This answering Defendant denies each and every allegation contained in Paragraphs 15, 16, 17, 18 and 19 of that portion of Plaintiff's Complaint entitled "**FIRST CAUSE OF ACTION**".

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

Plaintiff did not use reasonable diligence to care for her injuries, thereby aggravating said injuries as a result. Therefore, Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced in proportion to said negligence of Plaintiff.

SECOND AFFIRMATIVE DEFENSE

At the time and place' alleged in Plaintiff's Complaint, and for a period of time prior thereto, Plaintiff did not exercise ordinary care, caution, or prudence for the protection of her own safety, and injuries and damages complained of by Plaintiff in the Complaint, if any, were directly and proximately caused or contributed to by the fault, failure to act, carelessness, and negligence of Plaintiff, and therefore Plaintiff's claims against this answering Defendant should be denied, or any recovery reduced in proportion to said negligence of Plaintiff.

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1 WHEREFORE, this answering Defendant prays that Plaintiff take nothing by virtue of her
2 Complaint on file herein; for costs and disbursements incurred in this action; and for such other and
3 further relief as to the Court may deem proper.

4 Dated this 11th day of January, 2021.

5 COOPER LEVENSON, P.A.

6
7 By /s/ Jerry S. Busby

8 Jerry S. Busby

9 Nevada Bar #001107

10 Gregory A. Kraemer

11 Nevada Bar #010911

12 3016 West Charleston Boulevard - #195

13 Las Vegas, Nevada 89102

14 Attorneys for Defendant

15 SMITH'S FOOD & DRUG CENTERS, INC.
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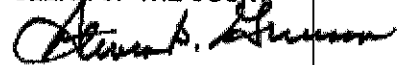
CERTIFICATE OF SERVICE

Pursuant to NRCP 5(b), I certify that I am an employee of COOPER LEVENSON, P.A. and that on this 11th day of January, 2021, I did cause a true copy of the foregoing **DEFENDANT SMITH'S FOOD & DRUG CENTERS, INC.'S ANSWER TO PLAINTIFF'S COMPLAINT** to be served upon each of the parties listed below via electronic service through the Eighth Judicial District Court's Odyssey E-File and Serve System:

Justin G. Randall, Esq.
ER INJURY ATTORNEYS
4795 South Durango Drive
Las Vegas, NV 89147
Attorneys for Plaintiff

By _____
An Employee of
COOPER LEVENSON, P.A.

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ABREA

Craig A. Henderson, Esq.
Nevada Bar No. 10077
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4795 South Durango Drive
Las Vegas, Nevada 89147
Telephone: (702) 968-7500
Facsimile: (702) 747-4538
Email: justin@erinjuryattorneys.com
Attorneys for Plaintiffs

DISTRICT COURT

CLARK COUNTY, NEVADA

BETTY TERRESE WRIGHT, individually,

Plaintiff,

v.

SMITH'S FOOD & DRUG CENTERS, INC. an
Ohio Corporation; DOES I-V; and ROE
CORPORATIONS III-V, inclusive,

Defendants.

CASE NO.: A-20-826521-C

DEPT NO.: 32

PETITION FOR EXEMPTION FROM ARBITRATION

COMES NOW Plaintiff, BETTY TERRESE WRIGHT, by and through her attorneys of record, CRAIG A. HENDERSON, ESQ., of ER INJURY ATTORNEYS, and hereby requests the above entitled matter be exempted from arbitration pursuant to Nevada Arbitration Rule 3 and 5, as this case:

1. ____ presents a significant issue of public policy;
2. XX involves an amount in issue in excess of \$50,000, exclusive of interest and costs;
3. ____ presents unusual circumstances which constitute good cause for removal from the program.

This is an action for personal injuries resulting from a slip and fall incident that occurred on September 30, 2019 in Clark County Nevada. On this date, Plaintiff was an invitee of Defendant SMITH'S FOOD & DRUG CENTERS, INC. While visiting the property, Plaintiff slipped on a clear liquid substance, causing Plaintiff serious injuries.

To date, Plaintiff BETTY TERRESE WRIGHT has incurred the following medical expenses

as a result of the subject incident:

1.	MedicWest Ambulance	\$1,102.02
2.	Sunrise Hospital	\$53,901.00
3.	Fremont Emergency Services	\$1,428.00
4.	Radiology Specialists	\$378.00
5.	Desert Radiology	\$2,090.20
6.	Southwest Medical Associates	\$432.02
7.	Ruggeroli and Helmi Pain Specialists	\$6,356.50
8.	Knee and Shoulder Institute	\$254.00
9.	ATI Physical Therapy	\$2,197.63
10.	Surgical Arts Center	\$5,072.00
TOTAL DAMAGES		\$73,211.37

Plaintiff slipped and fell on a clear liquid on the floor of an isle in the Defendant's premises. Plaintiff struck her head on the isle shelves and lost consciousness. Plaintiff was taken by ambulance to the hospital where she was diagnosed with a head injury. She also suffered knee, ankle, back and leg pain from the fall. Plaintiff has undergone therapeutic injections to her lumbar spine.

As is evidenced by the injuries diagnosed by Plaintiff's healthcare providers, together with the significant medical expenses incurred by Plaintiff and the future cost of treatment, Plaintiff's case has a probable jury award value in excess of \$50,000. Accordingly, and pursuant to N.A.R. 3, this matter is appropriately exempted from the Court Annexed Arbitration Program. Further, this request for exemption has been timely filed pursuant to the requirements set forth in N.A.R. 5.

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1 Based upon the foregoing, I hereby certify pursuant to N.R.C.P. 11 this case to be within the
2 exemption marked above, and I am aware of the sanctions which may be imposed against any
3 attorney or party who without good cause or justification attempts to remove a case from the
4 arbitration program.

5 ER INJURY ATTORNEYS

6
7 /s/ Craig A. Henderson
8 Craig A. Henderson, Esq.
9 Nevada Bar No. 10077
4795 South Durango Drive
10 Las Vegas, Nevada 89147
Attorneys for Plaintiff

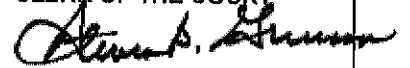
11
12
13 **CERTIFICATE OF SERVICE**

14 Pursuant to N.R.C.P. 5(a), E.D.C.R. 7.26(a) and N.E.F.C.R. 9, I hereby certify that I am an
15 employee of ER INJURY ATTORNEYS, and on the 15th day of January, 2021, the foregoing
16 **PETITION FOR EXEMPTION FROM ARBITRATION** was served by electronic via the Eighth
17 Judicial Court's Odyssey E-File and Serve system, to the following counsel of record:

18
19 Jerry S. Busby, Esq.
20 Gregory A. Kraemer, Esq.
21 COOPER LEVENSON, P.A.
3016 West Charleston Boulevard - #195
22 Las Vegas, Nevada 89102
Attorney for Defendant

23
24 /s/ Amber Geiman
25 An Employee of ER INJURY ATTORNEYS
26
27
28

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CLERK OF THE COURT



CDRG

DISTRICT COURT

CLARK COUNTY, NEVADA

Betty Wright, Plaintiff(s)

vs.

CASE NO: A-20-826521-C

DEPT. NO: II

Smith's Food & Drug Center, Inc. and Ohio

Corporation, Defendant(s)

COMMISSIONER'S DECISION ON REQUEST FOR EXEMPTION

REQUEST FOR EXEMPTION FILED ON: January 15, 2021

EXEMPTION FILED BY: Plaintiff OPPOSITION: No

DECISION

Having reviewed the Request for Exemption, and all related pleadings, the Request for Exemption is hereby GRANTED.

DATED this 3rd of February, 2021.



ADR COMMISSIONER

NOTICE

Pursuant to Nevada Arbitration Rule 5(D), you are hereby notified you have five (5) days from the date you are served with this document within which to file written objections with the Clerk of Court and serve all parties. The Commissioner's Decision is deemed served three (3) days after the Commissioner's designee deposits a copy of the Decision in the U.S. Mail. **Pursuant to NEFCR Rule 9(f)(2) an additional 3 days is not added to the time if served electronically (via e-service).**

A copy of the foregoing Commissioner's Decision on Request for Exemption was electronically served, pursuant to N.E.F.C.R. Rule 9, to all registered parties in the Eighth Judicial District Court Electronic Filing Program on the date of e-filing.

If indicated below, a copy of the foregoing Commissioner's Decision on Request for Exemption was also:

☐ Placed in the folder of counsel maintained in the Office of the Clerk of Court on _____, 2021.

☐ Mailed by United States Postal Service, Postage prepaid, to the proper parties listed below at their last known address(es) on _____.

/s/ Loretta Walker
ADR COMMISSIONER'S DESIGNEE